

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

May 8, 2009

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No.: 08KD-194

Kauai

Sale of Lease at Public Auction for Pasture Purposes and Issuance of Revocable Permit to William J. Sanchez, Sr., Wailua House Lots, 4th Series, Wailua, Kawaihau (Puna), Kauai, Tax Map Key: (4) 4-1-9:17.

REQUEST:

Sale of lease at public auction for pasture purposes; and

Issuance of revocable permit to William J. Sanchez, Sr., married, Tenant in Severalty, whose mailing address is 873-A Kamalu Road, Kapaa, Hawaii, 96746.

LEGAL REFERENCE:

Sections 171-14, -14.5, -16, -17, -55 and other applicable sections of Chapter 171, Hawaii Revised Statutes, as amended

LOCATION:

Portion of Government (Crown) land of Wailua, situated at Wailua House Lots, 4th Series, Kawaihau (Puna), Kauai, identified by Tax Map Key: (4) 4-1-09:17 as shown on the attached maps labeled Exhibits A & B.

AREA:

11.796 acres, more or less

ZONING:

State Land Use District: Urban
County of Kauai CZO: Open

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

CURRENT USE STATUS:

Encumbered by General Lease No. S-5349, William J. Sanchez, Sr., Lessee, for pasture purposes. Expired on December 14, 2008.

LEASE TERMS AND CONDITIONS:

CHARACTER OF USE:

Pasture purposes

LEASE TERM:

Fifteen (15) years

COMMENCEMENT DATE:

The date of sale if the current occupant is the successful bidder, otherwise, sixty (60) days after the date of sale; provided that if such date is not on the first day of any month, the commencement date shall be the first day of the month following such date; and further provided that the Chairperson may amend the commencement date for good cause.

MINIMUM UPSET ANNUAL RENT:

To be determined by staff or independent appraisal establishing fair market rent, subject to review and approval by the Chairperson.

METHOD OF PAYMENT:

Semi-annual payments, in advance

RENTAL REOPENINGS:

At the 5th and 10th year of the lease term, by staff or independent appraisal

PERFORMANCE BOND:

Twice the annual rental amount

May 8, 2009

REVOCABLE PERMIT TERMS AND CONDITIONS:

CHARACTER OF USE:

Pasture purposes

COMMENCEMENT DATE:

Effective December 15, 2008

MONTHLY RENTAL:

\$43.00 per month

COLLATERAL SECURITY DEPOSIT:

Twice the monthly rental

PROPERTY CHARACTERISTICS:

Utilities: Available to lot line
Slope: 0-10%
Elevation: 100 – 1000 feet
Rainfall: 40 – 60 inches median annual rainfall
SCS Soil Series: Lihue silty clay (LhC)

Legal access to property: Staff has verified that there is legal access to the property off of Kaulana Road.

Subdivision: Staff has verified that the subject property to be auctioned is a legally subdivided lot.

Encumbrances: Staff has verified that the following encumbrances exist on the property as follows:

- a) Easement for East Kauai Water Company Limited's ditch right-of-way (10.00 feet wide).
- b) Easement for storm ditch right-of-way (6.00 feet wide).
- c) Governor's Executive Order 878 for an irrigation system for occupants of Wailua House Lots and subsistence homesteads.
- d) Grant of Non-Exclusive Easement bearing Land Office Deed No. S-27925, Michael Houar and Mary Houar, for right, privilege and authority to construct, reconstruct, use and maintain roadway for access purposes.
- e) Easement for roadway (15.00 feet wide) adjoining Lots 176 to 179, inclusive, of

Wailua House Lots, 4th Series Extension.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with the "Division of Land Management's Environmental Impact Statement Exemption List", approved by the Environmental Council and dated April 28, 1986, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, that states " Operations, repairs or maintenance of existing structures, facilities, equipment or topographical features involving negligible or no expansion or change of use beyond that previously existing."

DCCA VERIFICATION:

Applicant is sole proprietorship and, as such, is not required to register with DCCA.

REMARKS:

The Board of Land and Natural Resources at its meeting held on August 23, 1991, agenda item F-9, approved the public auction sale of a 15 year pasture lease.

General Lease No. S-5349 was awarded to Louis K. Rego by public auction held on December 15, 1993. The term was for fifteen (15) years; commencing on December 15, 1993 and expiring on December 14, 2008, to be used solely for pasture purposes. "Pasture" means the conduct of livestock operation consisting of keeping cattle, primarily, and others, in a minor role such as horses and sheep where animals graze the land for feed produced thereon.

The Board at its meeting held on March 22, 1996 under agenda item D-15, consented to the assignment of General Lease No. S-5349 from Louis K. Rego to William J. Sanchez, Sr.

Mr. Sanchez on November 13, 2008, requested a month-to-month revocable permit once the lease expires. The delay is due to staff not processing this lease in accordance with Section 171-329, HRS.

The County of Kauai has zoned the parcel as "Open" which allows agriculture as a permitted use.

Staff feels that parcel can be successfully sold at a future public auction.

The property is in a residential neighborhood and such could be used for affordable housing. We have received no comments from either the County of Kauai's Housing Department or State of Hawaii's Housing and Community Development Corporation of Hawaii (HCDCH). Therefore, staff is requesting the lease be for 15 years instead of 30 years.

Applicant has not had a lease, permit, easement or other disposition of State lands terminated

within the last five years due to non-compliance with such terms and conditions.

Applicant is a lessee on General Lease Nos. S-5346, 5349, 5519, 5583, 5659 and Revocable Permit Nos. S-7199 and 7278 and as such qualifies as a bona fide rancher pursuant to §171-14.5, HRS. As this is a continuation of an existing use of the property, staff is recommending the Board approve the request.

There has been no other applicants requesting use of this parcel.

Comments were solicited from:

State Agencies:

Dept. of Agriculture	No objections
OHA	No comments
NRCS	No response by suspense date
HCDCH	No response by suspense date

County Agencies:

County Planning Department	No objections
Housing	No response by suspense date

RECOMMENDATION: That the Board:

1. Find the area to be an economic unit in terms of the intended use.
2. Find that the subject area is not suitable for hunting, nor will it become so during the term of the permit or lease.
3. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
4. Authorize the sale of a lease at public auction covering the subject area for pasture purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - a. The standard terms and conditions of the most current pasture general lease form, as may be amended from time to time;
 - b. Review and approval by the Department of the Attorney General; and
 - c. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

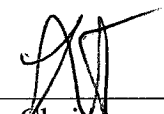
May 8, 2009


5. Authorize the issuance of a revocable permit to William J. Sanchez, Sr. covering the subject area for pasture purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
- a. The standard terms and conditions of the most current revocable permit form, as may be amended from time to time;
 - b. Review and approval by the Department of the Attorney General; and
 - c. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

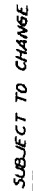
Respectfully Submitted,


for Marvyn Mikasa
Land Agent

APPROVED FOR SUBMITTAL:



Laura H. Thielen, Chairperson 

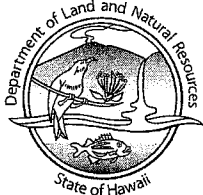


Subject

PORTION OF WAILUA, KAWAIHAU, KAUAI.

EXHIBIT "B"

Long No.	Source	By
3550	Tax Maps Bureau / Survey Dept.	M.H. OX 11/19/41
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STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

January 20, 2009

MEMORANDUM

PM3:07:14

TO: Laura H. Thielen, Chairperson

JAN 29 '09

THROUGH: Morris M. Atta, Administrator

FROM: Cyrus C. Chen, Real Estate Appraisal Manager

DLNR KDLO RCVD

SUBJECT: In-House Valuation Recommendation – Revocable Permit for Pasture Purposes

Doc No.: 08KD-194

Applicant: William J. Sanchez, Sr.

Location: Wailua House Lots, 4th Series, Wailua, Kawaihau, Kauai, Hawaii

Land Area: 11.796 acres

Tax Map Key: (4) 4-1-9: 17

Char. of Use: Pasture

We have been requested to provide a monthly rent amount for the issuance of a revocable permit for pasture purposes on the above-referenced property effective December 15, 2008. This rent amount will be included in staff's submittal to the Board for approval of this permit and will not be effective unless such approval is received. The subject was encumbered by the applicant under General Lease S-5349 which expired December 14, 2008. The rent was \$465 per annum and last reopened in 2003. The last two reopening appraisals, both of which were approved by the DLNR, had used the State pasture production formula as part of the rent determination methodology.

The subject consists of approximately 11.796 acres in Wailua, Kauai. Based on the prior 2003 appraisal, the site contains 11 usable acres for pasture use and can support one animal unit for each usable acre of pasture use. Therefore, the carrying capacity is approximately 11 AUy.

Based on an animal production formula for the subject acreage, we calculated the annual rent using an 11 AUy capacity:

Pasture Details	Usable Acreage	Capacity ¹	AUy
	11 ac. divided by	1 ac./cow =	11

Average weight gain per animal per year in lbs.	x	300
Annual weight gain in lbs.		3,300
Average live weight price (3-yr. average) ²	x	\$0.62
Gross value of beef		\$2,046
Portion of gross profit to Lessor	x	25%
Gross annual rent		\$511.50
Monthly rent		\$42.63
Monthly rent (rounded)		\$43

¹Carrying capacity referenced in prior appraisal.

²Average live weight price (cents per pound) for Kauai derived from the *Statistics of Hawaiian Agriculture* average for the period 2004 to 2006, the most recent data available.

Year	Statewide	Kauai
2004	\$0.648	\$0.603
2005	\$0.753	\$0.606
2006	<u>\$0.767</u>	<u>\$0.643</u>
Average (rounded)	\$0.723	\$0.617

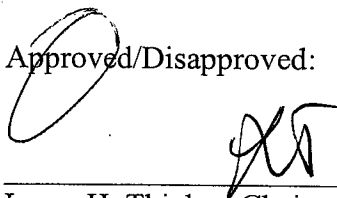
Therefore, as of December 15, 2008, the monthly market rent for the revocable permit to the applicant is recommended to be \$43 per month.

Special Assumptions and Limiting Conditions

1) This rental valuation estimate is for internal purposes only. This document does not take the place of an appraisal and does not constitute an appraisal that adheres to the Uniform Standards of Professional Appraisal Practice.

2) The subject property was not inspected by the staff appraiser.

Approved/Disapproved:



 Laura H. Thielen, Chairperson

1/27/09

 Date

cc: District Branch Files
 Central Files